

AMENDED IN ASSEMBLY APRIL 2, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2959

Introduced by Assembly Member Horton

February 25, 2002

An act to amend Section 1861.16 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2959, as amended, Horton. Insurance.

Existing law requires agents or representatives representing insurers under common ownership, management, or control to provide good driver coverage, which is required to be sold to eligible persons pursuant to certain provisions enacted by Proposition 103, at the lowest rates applicable within the common ownership, management, or control group.

This bill would instead require agents or representatives representing insurers ~~having common ownership operating in California under common management, control, and selling insurance through the same marketing system in an insurer group, as defined,~~ to provide that good driver coverage at the lowest rates applicable within the ~~common ownership, management, control, and marketing system insurer~~ group. Because this bill would clarify the persons required to provide good driver coverage required under Proposition 103, it would amend Proposition 103, and thus, would require a 2/3 vote for enactment.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1861.16 of the Insurance Code is amended to read:

1861.16. (a) An insurer issuing a policy described in subdivision (a) of Section 660 by or through an insurance agent where a commission is paid, directly or indirectly, to that agent shall, when issuing a policy in the minimum financial responsibility coverage amount as required by Section 1861.15, pay a commission on the same terms and on the same percentage basis to that agent as for any higher amount of policy coverage sold by that agent. In no case shall the percentage amount of commission paid to that agent for a policy of minimum financial responsibility coverage be less than the percentage commission paid to that agent on any higher level of policy coverage issued by that insurer.

(b) An agent or representative representing one or more insurers ~~having common ownership operating in California under common management or, control, and selling insurance through the same marketing system in an insurer group~~ shall offer, and the insurer shall sell, a good driver discount policy to a good driver from an insurer within that ~~common ownership, management, control, and marketing system insurer~~ group, which offers the lowest rates for that coverage. This requirement applies notwithstanding the underwriting guidelines of any of those insurers or the underwriting guidelines of the ~~common ownership, management, control, and marketing system insurer~~ group. Nothing in this subdivision shall require an insurer to offer and sell a good driver discount policy that the insurer would otherwise not be required to offer and sell in accordance with paragraph (3) of subdivision (b) of Section 1861.02. *For the purposes of this subdivision, “insurer group” is any two or more insurers that exercise any authority granted in Section 1853.5 with respect to automobile insurance. As used in this subdivision, “representative” means any person who offers or prepares premium quotations on behalf of either an insurer or any entity acting directly or indirectly on behalf of an insurer. This subdivision shall not be construed to either permit a representative to transact insurance, or to exempt a representative who does transact insurance from the licensing provisions of this code.*

1 This subdivision shall become operative on January 1, 1991.

2 (c) An insurer that is required by this section or Section
3 1861.02 to offer and sell good driver discount policies to good
4 drivers to whom it did not sell those policies prior to November 8,
5 1988, due to driving safety record or vehicle type may file and,
6 upon the approval of the commissioner, implement an interim
7 rating plan for those applicants until the rating plan required by
8 subdivision (a) of Section 1861.02 is adopted, provided that the
9 insurer has timely filed an automobile insurance rating plan in
10 compliance with subdivision (a) of Section 1861.02, and that plan
11 has not been approved. An insurer may file an interim plan prior
12 to the operative date of subdivision (b).

13 The commissioner shall notify the public of any application by
14 an insurer for an interim rating plan. The public notice shall meet
15 the requirements of Section 1861.06. The application shall be
16 deemed approved 60 days after public notice unless (1) a consumer
17 or his or her representative requests a hearing within 45 days of
18 public notice and the commissioner grants the hearing, or
19 determines not to grant the hearing and issues written findings in
20 support of that decision, or (2) the commissioner on his or her own
21 motion determines to hold a hearing. If the commissioner grants
22 a request for a hearing or determines on his or her own motion to
23 hold a hearing on the application for an interim rating plan, but
24 does not approve or disapprove the proposed interim rating plan
25 within the later of 30 days from the date the commissioner grants
26 a request or determines to hold the hearing or January 1, 1991, the
27 interim rating plan may be used until the time that the
28 commissioner issues a decision.

29 If an interim rate or proposed interim rate is greater than the rate
30 ultimately approved, the insurer shall refund to its applicable
31 policyholders, in proportion to the amount of premium paid by
32 each, the difference between the total amount earned and the
33 amount to which the insurer is entitled under the rate ultimately
34 approved, together with interest at the rate of 10 percent per year.
35 In lieu of a refund, the insurer may provide a credit to the
36 policyholder if the amount due is less than three dollars (\$3).

37 (d) Nothing contained in subdivision (b) or (c) shall be
38 construed to expand, limit, or modify the requirements of
39 subdivision (b) of Section 1861.02.

- 1 (e) A violation of this section by any insurer shall subject it to
- 2 the penalties provided by Section 1861.14.

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